

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION

UNITED STATES OF AMERICA

v.

JOEL ADAMS SMITHERS

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Case No.: 1:17-CR-00027

MOTION IN LIMINE
REQUEST FOR LAFLER/FRYE INQUIRY

The United States of America, by counsel, respectfully requests the Court make formal inquiry on the record, prior to trial, concerning whether the defendant, Joel Adams Smithers (“Smithers”) has received and had the opportunity to consider the proposed plea agreement from the United States in this case, which was provided to his counsel by electronic mail on June 24, 2024, and whether Smithers knowingly and willfully chose not to execute the proposed plea agreement and submit it to the United States for consideration as an offer to enter into a formal plea agreement. *Lafler v. Cooper*, 566 U.S. 156 (2012); *Missouri v. Frye*, 566 U.S. 134 (2012).

The United States sent a proposed plea agreement to Smithers’ counsel on June 24, 2024. The United States informed Smithers’ counsel that if Smithers wished to have the United States consider entering into the agreement, the signed plea agreement should be returned to the United States by July 5, 2024, at 3:00pm. The United States made clear that the generous terms in the proposed plea agreement would be considered by the United States for the sole reason of saving the time and expense of preparing for trial that could otherwise be devoted to other investigations. The United States did not receive any response from Smithers’ counsel after its provision of the proposed plea agreement, and Smithers did not return the signed agreement to the United States by July 5, 2024, at 3:00pm.

In light of *Lafler* and *Frye*, and the status of this case, the United States believes it is prudent at the status conference before the Court on July 9, 2024, for a formal inquiry to be made into whether the proposed plea agreement was communicated to Smithers, and to confirm that he has

knowingly and willfully decided to forego plea negotiations and is in favor of proceeding to trial.

Respectfully submitted,

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Western District of Virginia

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CERTIFICATE OF SERVICE

I hereby certify that on July 5, 2024, a copy of the foregoing was filed in the Court's electronic filing system. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other interested parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

By: s/M. Suzanne Kerney-Quillen
Special Assistant United States Attorney